



Topic of the issue:

LABOUR RELATIONS DURING MARTIAL LAW: drastic changes in the legislation

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Due to the military aggression of Russia against Ukraine on February 24, 2022, the President of Ukraine has declared martial law throughout Ukraine for 30 days by the [Decree](#) ([approved](#) by the Parliament and entered into force on the same day). Currently, martial law has been [prolonged](#) for 30 days more.

WORK DURING MARTIAL LAW

On March 15, 2022, the Parliament of Ukraine adopted the [Law of Ukraine](#) "On Organizing Labour Relations under Martial Law" (came into effect on March 24, 2022), which clarifies relevant restrictions of the constitutional rights and freedoms of humans and citizens (Art. 43, 44 of the Constitution of Ukraine) and sets out special rules applicable to labour relations to replace the "normal" rules of the Labour Code of Ukraine, **in particular:**

- probation can be set for all employees;
- employers may enter into fixed-term employment agreements with new employees for the duration of martial law or the period of replacement of a temporarily absent employee;
- employers have the right to transfer their employees to other work without the latter's consent (with some exceptions);

Note:

This publication is not a legal advice and provides only general information about the most important legislation changes in Ukraine. In order to avoid any risks prior to making any decisions related to information contained in this publication, please, seek the legal advice.

- a two-month notice period does not apply when essential working conditions change;
- in connection with hostilities in the area of the employer's location, employees may terminate employment agreements on their own without a two-week notice period (with some exceptions);
- trade union's consent to dismissal of employees – only for dismissal of members of the trade union's elective bodies (rather than for all trade union members);
- normal working hours are 60 hours/week and 50 hours/week for employees with reduced working hours. The beginning and end of daily work (shift) shall be determined by the employer only;
- personnel records management and archival storage of personnel documents are organized at the employer's discretion;
- categories of employees enjoying certain restrictions in peacetime may be involved in certain types of work (e.g. women may be involved in heavy work or work at night);
- remuneration shall be paid on the terms of employment agreements; such payment may be delayed if the employer is unable to pay salary due to hostilities;
- certain provisions of the collective bargaining agreement may be suspended by the employer;
- employers may refuse to grant leave to critical infrastructure employees (except in some cases); it is allowed to grant unpaid leave for the entire wartime without taking into account the provisions of part one of Art. 26 of the Law of Ukraine "On Leaves" (regarding 15 days of unpaid leave per year);
- the parties have the right to suspend the employment agreement (a new mechanism that requires further clarifications). Salary compensation, guarantees and compensation payments to employees for the suspension period is fully imposed on the state carrying out military aggression;
- for the period of martial law, the effect of Art. 44 of the Law of Ukraine "On Trade Unions, their Rights and Activity Guarantees" (payment by the employer of at least 0.3% of the payroll for cultural, sport and recreational work) and the relevant provisions of collective bargaining agreements shall be temporarily suspended;
- the provisions of Art. 53 (reduced duration of work on the eve of holidays, days off and weekends), part one of Art. 65 (restrictions for overtime works), parts three-five of Art. 67 (shifting of the days off) and Art. 71 - 73 (holidays and days off) of the Labour Code of Ukraine shall not apply during martial law. Thus, holidays and days off are not applicable as of now.

MOBILIZATION OF EMPLOYEES

On March 3, 2022, the Parliament also [approved](#) the [Decree](#) of the President of Ukraine of February 24, 2022, on general mobilization.

TERMS FOR CONSCRIPTION (MOBILIZATION):



according to the Decree mobilization is carried out **within 90 days** from the date of its entry into force;



persons under military duty and reservists are subject to mobilization.

Employers should remember the need to **comply with legislative guarantees for employees** for the duration of their duties related to admission to military service – for example, regarding the retaining of their place of work, job position, and average earnings (part 2 Art. 21 of the Law of Ukraine “On Military Duty and Military Service”, Art. 119 of the Labour Code of Ukraine):



in the case of conscription for military service, military service of officers, military service by conscription during mobilization, for a special period, military service by conscription of persons from among reservists for a special period (based on a summons);



during time off work for the duration of service under the contract (based on an extract from the order of a military unit or a certified copy of the contract);



when undergoing a medical examination (based on a summons for a medical examination, with subsequent marks regarding the time of its passing; certificates of the fact of passing a medical examination by an employee);



during military meetings/training (based on a summons, information from a military ID (military service card)), etc.

If the employee has not yet provided supporting documents on conscription/entry into military service (the employer has only oral statements of the employee) – do not dismiss the employee for

absence. It is necessary to mark such absence in a working timetable as a no-show for unknown reasons (mark **"NZ/H3"**) until receipt of the necessary documents from the employee.

Also, the guarantees provided for in Art. 119 of the Labour Code of Ukraine (retaining of workplace and payment of average earnings) shall be valid for employees who have joined the ranks of territorial defence. To be granted such guarantees, the employee must present a territorial defence volunteer contract to the employer.

ADVICE TO EMPLOYERS ON THE FURTHER WORK OF OTHER EMPLOYEES:

- to identify among employees those persons who can be called up for military service/mobilized;
- to consider the possibility of booking conscripts with the consent of the Ministry of Defence, in the manner prescribed by the Resolution of the Cabinet of Ministers of Ukraine [No. 194](#) of March 3, 2022 (as [amended](#) on March 7, 2022);
- if it is advisable and possible – to temporarily transfer personnel to **remote/home-based work** (for the period of the threat of armed aggression). Formalization – by the order of the employer notifying the employee of such changes before their commencement, but not later than two days from the date of adoption of the order. If a permanent transition to remote/home-based work is planned, then such changes should be made by concluding an agreement for remote/home-based work based on a model form of such agreement;
- to consider **transferring employees to another area, job position, changing of essential working conditions** (under new rules);
- if options mentioned above are not possible, consider:
 - **paid/unpaid leave**
 - stopping production/work and declaring **downtime**
 - **suspension of the labour agreement validity;**
- if any contact with the employee was lost – do not dismiss the employee for absenteeism. It is necessary to mark such absence in a working timetable as a no-show for unknown reasons (mark **"NZ/H3"**) until receipt of the information from the employee about the reasons for the absence;

- to remember that the employer remains **responsible for ensuring safe working conditions for employees** (except in cases of remote/home-based work when the employer is responsible only for the safety of using the equipment provided and conducting work safety briefings);
- to inform employees who lost their jobs due to martial law about the possibility **of receiving a [one-time financial aid](#) of UAH 6,500** – via the DIIA app

We hope that soon Ukraine will win and we will all be able to return to our homes and rebuild our country!

Glory to Ukraine!